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Crl.O.P.No.2482 of 2023

IN THE HIGH COURT OF JUDICATURE AT MADRAS

DATED : 07.06.2023

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THE HONOURABLE MR.JUSTICE G.CHANDRASEKHARAN

Crl.O.P.No.2482 of 2023

in

Crl.M.P.No.1392 of 2023

Selvaraj

...

Petitioner

VS

The State represented by its,
The Inspector of Police,
Thalaivasal Police Station,
Salem District.
Crime No.306 of 2022.

...

Respondent

Prayer : Criminal Original Petition has been filed under Section 482 of Cr.P.C, to call for records in Crime No.306 of 2022 on the file of Inspector of Police, Thalaivasal, Salem District and quash the same.

For Petitioner

...

Mr.A.Raja Kumar

For Respondent

...

Mr.Leonard Arul Joseph Selvam
Government Advocate (crl.side)



Crl.O.P.No.2482 of 2023

ORDER

This Criminal Original Petition has been filed to call for records in Crime No.306 of 2022 on the file of Inspector of Police, Thalaivasal, Salem District and quash the same.

2. Learned counsel for the petitioner submitted that, one Chinnasamy S/o.Kasi was given permission for taking vandal sand from Thalaivasal lake for agricultural purposes measuring 90 cubic meter or 10 units in tractor between 25.08.2022 to 30.08.2022. It is further submitted that, the petitioner was employed by the said Chinnasamy for removing the vandal sand from the Thalaivasal lake. The sand was taken, on the basis of the legal permission granted by the Tahsildar, Thalaivasal, Salem District dated 24.08.2022.

3. Learned counsel Government Advocate (Criminal side) submitted that, the petitioner has not produced any materials to show that, he was appointed by the Chinnasamy S/o/Kasi as his employee to do the said work.



CrI.O.P.No.2482 of 2023

4. Inview of the same, petitioner was directed to produce authorisation given by the Chinnasamy S/o.Kasi to the petitioner to undertake the excavation work, by the Order of this Court on 08.02.2023. Accordingly, petitioner produced the copy of the authorisation given by the Chinnasamy S/o.Kasi.

5. Learned Government Advocate (Criminal side) does not dispute the genuineness of the authorisation made by Chinnasamy in favour of the petitioner. But his contention is that, when there was a condition that the vandal sand should not be removed on Saturday and Sunday and on Government Holidays, violating this condition, sand was removed on Sunday i.e., 28.08.2022.

6. Considered the submissions and perused the records.

7. From the materials produced, it is established that Chinnsamy was permitted to remove vandal sand to an extent of 90 cubic meter or 10 units, in tractor between 25.08.2022 to 30.08.2022 by the order of the Tahsildar,



Crl.O.P.No.2482 of 2023

Thalaivasal, Salem District dated 24.08.2022. Chinnasamy then engaged the petitioner for removing vandal sand. Though the petitioner had removed vandal sand on Sunday violating the condition, however, the said violation, in the considered view of the Court will not make out a case for registration of First Information Report under Sections 379 and 511 of IPC. Therefore, this Court is of the view that, for the said violation, the Tahsildar can take appropriate legal action against the petitioner and Chinnasamy, however registration of case under Sections 379 and 511 of IPC is not correct.

8. In the aforesaid facts and circumstances of this case, this Criminal Original Petition is allowed and the proceedings in Crime No.306 of 2022 on the file of Inspector of Police, Thalaivasal, Salem District is quashed. Consequently, the connected Miscellaneous Petition is closed.

07.06.2023

Index: Yes/No

Internet: Yes/No

Speaking/Non speaking order

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CrI.O.P.No.2482 of 2023

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To

1.The Inspector of Police,
Thalaivasal Police Station,
Salem District.

2.The Public Prosecutor,
High Court, Madras.



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Crl.O.P.No.2482 of 2023

G.CHANDRASEKHARAN, J.

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Crl.O.P.No.2482 of 2023

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